

JOHNSON G. McDOWELL, IV  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN

SANDRA GLOWACKI, on behalf of her  
Minor children, D.K.G. and  
D.C.G.,

Plaintiff,

vs.

Case No. 2:11-cv-15481-PJD-DRG

Hon. Patrick J. Duggan

HOWELL PUBIC SCHOOL DISTRICT,  
and JOHNSON (JAY) MCDOWELL,  
individually and in his official  
capacity as a teacher in the  
Howell Public School District,  
Defendants.

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The Continued Deposition of  
JOHNSON G. McDOWELL, IV,  
Taken at 38505 Woodward Avenue, Suite 2000,  
Bloomfield Hills, Michigan,  
Commencing at 9:10 a.m.,  
Tuesday, June 5, 2012,  
Before Melinda S. Moore, CSR-2258.

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1 A. Before we start, if I could grab something to  
2 drink.

3 (Off the record at 9:12 a.m.)

4 (Back on the record at 9:13 a.m.)

5 BY MS. MERSINO:

6 Q. You understand that everything today will be  
7 transcribed by the court reporter who's here?

8 A. That's correct.

9 Q. Okay. And everything today could be used in a  
10 court of law --

11 A. Um-hmm, yes.

12 Q. -- and is under oath --

13 A. Yes.

14 Q. -- subject to penalties of perjury?

15 A. Yes.

16 Q. And are there any rules that I just stated that  
17 you don't understand or require further  
18 clarification?

19 A. No, I understand all that.

20 Q. Okay. So let's go to the 20th of October of  
21 2010. Can you describe -- you said that you  
22 showed the video in six of your classes that day?

23 A. That's correct.

24 Q. And can you go through those classes.

25 A. It would be five classes. There are six classes

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1 now this year. There were five classes at that  
2 time.

3 Q. Starting with your first class, can you describe  
4 which class it was and how it came about that you  
5 showed the video.

6 A. I don't remember my exact schedule. I teach  
7 semester classes, so it changes from semester to  
8 semester, so I don't know whether I taught  
9 government first and then philosophy and then  
10 world religions and then econ. So I don't  
11 remember the exact order of the classes is what  
12 I'm saying. In each class, the class began with  
13 me talking about the fact that it was  
14 anti-bullying day and that the school district was  
15 doing an anti-bullying program as brought forward  
16 by Marcia McEvoy. And I spoke briefly about the  
17 problems with bullying and the recent deaths that  
18 had occurred that semester -- the fall semester  
19 around the country, and then I showed about three  
20 minutes of the video, and then we went on to  
21 class.

22 And each class went that way up until  
23 Daniel Glowacki's class, at which point I didn't  
24 get five minutes into the class before he  
25 interrupted me and interrupted the class.

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1 Q. Okay. What was the presentation that you were  
2 giving at the beginning of class? You said you  
3 started to discuss anti-bullying day?

4 A. Right, discussed that it was National  
5 Anti-Bullying Day, and that the school district  
6 had put forward an anti-bullying program that we  
7 had been trained on that by Marcia McEvoy before  
8 school started, and that bullying was a bad thing  
9 and they shouldn't do it.

10 Q. And you say that the anti-bullying day was  
11 sponsored by the school?

12 A. I said that it was anti-bullying day. I don't  
13 know if I told the students it was sponsored by  
14 the school or not.

15 Q. Did you believe it to be sponsored by the school?

16 A. I believed it to be okayed by the school, yes.

17 Q. And prior to your classes that day, what exactly  
18 had you prepared? You said you gave a  
19 presentation. What did the presentation entail?

20 A. There was nothing that I prepared ahead of time.  
21 It's just -- I mean, I just talked about bullying  
22 is a bad thing, cyber bullying is a bad thing, you  
23 know, don't bully.

24 Q. And you were wearing the purple Tyler's Army  
25 T-shirt?

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1 A. That's correct.

2 Q. And you had planned to show the video in each of  
3 your classes?

4 A. Um-hmm, and did without incident.

5 Q. And that would be Exhibit 16 that we viewed on  
6 the 29th of May?

7 A. I believe that is Exhibit 16, yes.

8 Q. Now, you stated in your presentation that you  
9 discussed Marcia McEvoy's teachings. How did --

10 A. I just mentioned we were doing this anti-bullying  
11 push, yes.

12 Q. And what was it that you relayed to the students  
13 that you learned at the in-service from the  
14 school?

15 A. That we would be taking a tough stance on  
16 bullying.

17 Q. Anything else?

18 A. Not that I remember, no.

19 Q. What exactly did you tell the class?

20 A. I don't remember exactly what I told the class.

21 Q. Do you remember how you started the conversation?  
22 Did you --

23 A. I don't remember.

24 Q. Did you reference your T-shirt?

25 A. I don't know.

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1 Q. Did you wait until the bell rang and your class  
2 was to begin before --

3 A. I assume that I waited for the bell to ring, yes.  
4 That would be normal procedure.

5 Q. Okay. And then after the bell rings, what's  
6 happening in your class?

7 A. After the bell rang, then I would be at the front  
8 of the classroom, and would be about to begin  
9 whatever it is that I'm going to do, whether it's  
10 to start the lesson plan, whether it's to talk to  
11 the students about something.

12 Q. Okay. So on the 20th of October you planned to  
13 talk to the students about Anti-Bullying Day?

14 A. Correct.

15 Q. And what do you first say?

16 A. I don't remember what I first said.

17 Q. You said something?

18 A. Right. I said something, but you told me not to  
19 speculate. I don't remember.

20 MS. BARTOS: The witness has already  
21 said a few times he doesn't remember exactly what  
22 he said, but he gave you an idea of what the  
23 discussion was about.

24 BY MS. MERSINO:

25 Q. If you can answer the question.

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1 A. I don't know exactly what I said.

2 MS. BARTOS: He said he doesn't know.

3 BY MS. MERSINO:

4 Q. Not saying exactly what you said, can you  
5 paraphrase what you said?

6 A. I talked about -- or I would have begun to talk  
7 about anti-bullying, but Daniel interrupted me and  
8 said, what is that T-shirt, or something to that  
9 effect, and I said it was an anti-bullying  
10 T-shirt. And he said, well, why do you get to  
11 wear those T-shirts if gays get -- why -- no,  
12 actually, if we go back, I guess, before that,  
13 that's when the other young lady came in and sat  
14 down and had the Confederate belt buckle on her --  
15 on her hand. I asked her to remove it, as I had  
16 many times, and she took it off and put it in her  
17 bag.

18 Q. Can you describe which student this was who had  
19 the Confederate flag belt.

20 A. It was a female student.

21 Q. Do you remember her name?

22 A. I do not.

23 Q. And did she come into your class prior to class  
24 beginning?

25 A. Um-hmm.

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1 Q. Were there people in your class already seated  
2 when this female was entering?

3 A. Yes, of course.

4 Q. And at what time did you decide to ask her to  
5 remove the Confederate flag belt buckle?

6 A. As soon as she sat down like I normally did.

7 Q. So the student sat down and then you asked her  
8 to --

9 A. Um-hmm.

10 Q. Did you ask her in front of the whole class or  
11 did you take her aside?

12 A. Well, I just approached her and said can you  
13 remove your Confederate flag belt buckle. It's a  
14 class of 35 students. You're standing, you know,  
15 a foot from the student, two feet from the student  
16 and you ask her. I don't know if that qualifies  
17 as taking her aside or not.

18 Q. And where was she seated in the class?

19 A. Front row.

20 Q. Now, you said the student had previously worn the  
21 Confederate flag belt buckle to class?

22 A. That's correct.

23 Q. Why was it on this day that you asked her to  
24 remove it?

25 A. I asked her to remove it every day that she wore

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1 A. I then explained the difference in symbolism  
2 between the Confederate flag and the rainbow flag.

3 Q. And can you explain that to us.

4 A. I explained the Confederate flag is seen by many  
5 people to be a symbol of racism, a symbol of a  
6 racist Jim Crow south. It's associated with  
7 lynchings, with cross burnings, with the KKK, and  
8 that the rainbow flag was originally used by Jesse  
9 Jackson's Rainbow Coalition in the early 1970s and  
10 was taken over by the gay movement in the late  
11 70s, early 1980s.

12 Q. Was this all that you said --

13 A. Um-hmm.

14 Q. -- at that time?

15 And then was there any response?

16 A. He said, well, I don't accept gays.

17 Q. Had you asked him about his feelings on  
18 homosexuality prior to this?

19 A. No. No. That wouldn't make any sense.

20 Q. So you're saying Daniel then says I don't accept  
21 gays?

22 A. That's correct.

23 Q. And then what do you say in response?

24 A. I said that you can't say that in class.

25 Q. And then what is the response?

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1 A. He said, well, I don't accept gays because I'm  
2 Catholic.

3 Q. Did you ask him what he meant by this?

4 A. No. I said that's fine that you're Catholic, but  
5 you still can't say I don't accept gays in class.

6 Q. Did you ask him to clarify what he was saying  
7 or --

8 A. No. There didn't need to be a discussion.  
9 Because usually when a student says something that  
10 they're not allowed to say in class, you say you  
11 can't say that in class and they don't say it. If  
12 a kid swears in class and you correct them and say  
13 you can't say that in class, that's the end of the  
14 discussion.

15 Q. Did Daniel swear in class?

16 A. No. He said I don't accept gays.

17 Q. And then he says I don't accept gays because it's  
18 against my religion?

19 A. No, he said I don't accept gays because I'm  
20 Catholic.

21 Q. Because I'm Catholic?

22 A. Um-hmm?

23 Q. What happens next?

24 A. Then classroom, you know, discussion occurred,  
25 that, you know, where I became upset over the fact

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1           that he insisted on saying I don't accept gays. I  
2           mean, you can imagine if somebody said I don't  
3           accept blacks, I don't accept Asians, I don't  
4           accept Jews, and kept saying it, and giving  
5           reasons for why it's okay for them to say that,  
6           that that would upset a teacher who's trying to  
7           continue on in class and knowing there might be  
8           Asians or Jews or blacks or gays in the classroom,  
9           that that could be upsetting.

10                   So then I became upset and told him he  
11           can't say that in class, and I said, just like you  
12           can't say I don't accept blacks, you can't say I  
13           don't accept gays in class, and just like you  
14           can't say I don't accept blacks because blacks are  
15           against my religion, you can't say I don't accept  
16           gays because it's against my religion.

17   Q.   Did he ever say that he didn't accept blacks?

18   A.   No.

19   Q.   Did he ever say that he didn't accept Jews?

20   A.   No.

21   Q.   Did he ever say that he didn't accept Asians?

22   A.   No.

23   Q.   Do you know of any religion that would have those  
24           beliefs?

25   A.   Sure. Southern Baptists didn't denounce slavery

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1 until the mid 19 -- or 1990s.

2 Q. Do you know of the Catholic religion not  
3 accepting Asians or Jews or blacks?

4 A. I think you have a mixed history of 2000 years of  
5 Catholic history on Jews, sure.

6 Q. Did you ever ask Daniel what he meant by not  
7 accepting gays?

8 A. No, because the purpose was to stop the discussion  
9 not to continue the discussion about why don't you  
10 accept gays.

11 Q. Did you ever ask him about Catholic social  
12 teaching?

13 A. No, I did not ask him about Catholic social  
14 teaching.

15 Q. I'm just wondering if you clarified at all.

16 A. No, I would not ask it. I wouldn't assume that he  
17 would know Catholic social teaching.

18 Q. He pronounced he was Catholic, correct?

19 A. That is correct. I also am Catholic.

20 Q. And he stated that he did not accept gays because  
21 he was Catholic?

22 A. Right.

23 Q. And did you have any further discussion about if  
24 he had anything actually against people who are  
25 gay?

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1 Q. Was he speaking with the other students in class?

2 A. Yes, he was.

3 Q. And what was he saying?

4 A. I don't remember.

5 Q. Do you remember how many comments he made to  
6 other students?

7 A. I don't remember.

8 Q. Do you remember the tone of voice he used?

9 A. I don't remember, no.

10 Q. Do you remember which students he spoke to?

11 A. No.

12 Q. Do you remember what the other students said back  
13 to Daniel?

14 A. No, I do not.

15 Q. Did you tell the class at that point to stop?

16 A. I don't remember if I did or not.

17 Q. Did you make any sort of request of the class in  
18 its entirety for the way they were behaving?

19 A. I don't remember.

20 Q. Okay. So what's the next thing that you do?

21 A. The next thing that I do is I then -- because  
22 Daniel was still pursuing his point of I don't  
23 accept gays, it's against my religion, I then put  
24 him in the hallway.

25 Q. How do you put Daniel in the hallway?

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1 A. I told him to get out into the hallway.

2 Q. Did you tell him anything else other than get out  
3 in the hallway?

4 A. I probably said get out in the hallway.

5 Q. And probably, or you remember saying that?

6 A. I probably -- that's typically what I say, so  
7 that --

8 Q. Did you ever tell Daniel after you had the  
9 discussion with the entire class to stop talking  
10 prior to saying get out in the hallway?

11 A. Yes, I did.

12 Q. So after the class was speaking up and making  
13 comments, you made a request of Daniel?

14 A. Yes.

15 Q. And what was that request?

16 A. I asked -- I believe I asked him to stop talking  
17 or stop commenting -- stop saying I don't accept  
18 gays.

19 Q. And what was his reaction after the entire class  
20 was involved?

21 A. I don't understand your question.

22 Q. Okay. So the order of things is at this point  
23 we're talking about when the other students were  
24 discussing matters and you said that you were  
25 getting frustrated at this point.

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1 A. Um-hmm.

2 Q. And at this point do you yet again ask Daniel to  
3 stop?

4 A. I believe I did, yes.

5 Q. And what is his reaction?

6 A. He didn't stop.

7 Q. And then what do you do next?

8 A. I told him to get in the hallway.

9 Q. What does Daniel do?

10 A. He gets up and gets in the hallway.

11 Q. Do you tell him why?

12 A. I would assume that I did after he was in the  
13 hallway, yes.

14 Q. Okay. Can you walk me through the steps that  
15 occur after you tell Daniel to get into the  
16 hallway.

17 A. Then I -- at that point when he went out into the  
18 hallway, another student came in who was coming in  
19 to class late, and he said, well, I don't accept  
20 gays either, can I get in the hallway. And I  
21 said, sure.

22 Q. How did that student know what the conversation  
23 was in class?

24 A. He had just walked into class.

25 Q. How long was the other student in class for?

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1 A. I don't remember.

2 Q. Was the other student in class to hear the  
3 entirety of what occurred?

4 A. No, no.

5 Q. What would the other students have heard?

6 A. I don't know. I wasn't focused on the door, so he  
7 could have been standing at the door for five or  
8 ten minutes or he could have been there for three  
9 or four minutes.

10 Q. Was the other student seated at a seat when you  
11 asked him to get into the hallway as well?

12 A. No, he had just walked in -- he had walked into  
13 class and said I don't accept gays either, can I  
14 leave. And I said, yep.

15 Q. Did you ask him what he meant by that comment?

16 A. No.

17 Q. At what point did you decide to issue the snap  
18 suspension against Daniel?

19 A. At the point when I asked him to stop talking and  
20 he didn't stop talking, I would assume that would  
21 be the point.

22 Q. And which point exactly was that at?

23 A. Counsel, I couldn't give you an exact point. This  
24 is something that's building in class where Daniel  
25 is being belligerent and causing -- hijacking the

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1 class, allowing me not to follow my lesson plan,  
2 and at that point pretty typical of a teacher, we  
3 will send a student into the hallway.

4 Q. At this point are you also getting more  
5 frustrated with the situation, more angry?

6 A. I'm getting more frustrated, yes.

7 Q. Are you getting heated?

8 A. I was getting frustrated.

9 Q. Would you say yes, you were getting more heated?

10 MS. BARTOS: It's a relative term.

11 What do you mean by more heated?

12 BY MS. MERSINO:

13 Q. Upset, angry.

14 MS. BARTOS: You asked him if he got  
15 upset and he said no. He said frustrated.

16 BY MS. MERSINO:

17 Q. Do you understand the question?

18 A. I got frustrated, yes.

19 Q. So you were not angry?

20 A. I got very frustrated. I mean, probably bordering  
21 on angry, sure.

22 Q. Bordering on angry but not angry?

23 A. Bordering on angry, yes.

24 Q. So as this is occurring, then you're getting  
25 frustrated, bordering on angry, and at that point

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1           you issue the snap suspension?

2    A.    That would be correct.

3    Q.    Does Daniel immediately go out into the hallway?

4    A.    Yes, he does.

5    Q.    Does Daniel make any other comments?

6    A.    Not that I remember, no.

7    Q.    How soon after you order Daniel do get into the  
8           hallway do you have this interaction with the  
9           other student in class?

10   A.    I believe they passed each other.

11   Q.    So are you saying that Adam, the other student,  
12           was walking in as Daniel was walking out?

13   A.    I believe so, yes.

14   Q.    And how does the interaction with the other  
15           student begin? Does the student volunteer the  
16           information about I don't accept gays, either?

17   A.    The student volunteered the information.

18   Q.    And what do you say to him?

19   A.    Yes, you can get out in the hallway.

20   Q.    And at that point are you angry or are you  
21           frustrated?

22   A.    Frustrated, sure.

23   Q.    Are you angry or --

24   A.    Frustrated.

25   Q.    So at this point you've ordered both students

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1 into the hallway?

2 A. That's correct.

3 Q. What is the class doing?

4 A. At that point, I don't know. Probably talking to  
5 each other like most classes will do.

6 Q. When did you decide to issue a snap suspension  
7 against the additional student, Adam?

8 A. When he said I don't accept gays.

9 Q. Was Adam arguing?

10 A. No.

11 Q. How did he say the comment? Was he calm?

12 A. He said I don't accept gays either, can I go out  
13 in the hallway.

14 Q. Was he that monotone about it? Was he calm?

15 A. Yes.

16 Q. Yes?

17 A. Yes.

18 Q. So the class is talking. And do you continue to  
19 stay with the class or do you go out into the  
20 hallway?

21 A. I went out into the hallway and explained to them  
22 again that what he said was inappropriate, that  
23 some people could compare it to racism, and that  
24 they couldn't come back in class.

25 Q. When you went into the hallway, did you keep the

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1 door open or did you close it?

2 A. I don't remember.

3 Q. When you've had other students go into the  
4 hallway in the past, do you typically keep the  
5 door open or do you close it?

6 A. It would depend on the situation.

7 Q. Okay. So when the students are in the hallway at  
8 that point are they silent? By students, I mean  
9 Daniel and Adam.

10 A. I don't remember.

11 Q. Do you initiate the conversation at that point in  
12 the hallway?

13 A. I did.

14 Q. And what's the first thing that you say to them?

15 A. The only thing I remember saying to them is that,  
16 you know, what you said was inappropriate, you  
17 can't say that in class, some people would  
18 consider that to be racism.

19 Q. And when you say that some people would consider  
20 it to be racism, exactly which comments are you  
21 referring to?

22 A. I don't understand your question.

23 Q. Okay. Correct me if I'm wrong. Do you say that  
24 when you get into the hallway, you told the  
25 students that is inappropriate, you can't say

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1           that in class, some people would consider that to  
2           be racism?

3    A.    Um-hmm.

4    Q.    And when you say some people would consider it to  
5           be racism, which comments of the students are you  
6           referring to?

7    A.    Oh, I don't accept gays.

8    Q.    And how did the students respond to that  
9           statement?

10   A.    I don't remember.

11   Q.    Do they stay quiet when they're in the hallway?

12   A.    I don't remember. It would be unlike Daniel to  
13           stay quiet, but I don't remember.

14   Q.    Now, after you say that some people would  
15           consider it to be racism, what do you say next?

16   A.    I don't remember exactly. I believe I went back  
17           into the classroom to call Jen Goodwin to have  
18           security come up and get the boys.

19   Q.    Did you tell the boys, Daniel and Adam to stay in  
20           the hallway?

21   A.    I don't know whether I did or not, but I think  
22           that was understood.

23   Q.    And then you go back into the classroom and use  
24           the classroom phone?

25   A.    That's correct.

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1 A. I'm sure I probably did.

2 Q. Do you communicate to the boys, Adam and Daniel,  
3 that they're being suspended?

4 A. It's the last day -- the last hour of class and  
5 they've been sent out of the last hour of class  
6 and being escorted by the security guard, so I  
7 don't know whether I said that or not or whether  
8 they surmised that they couldn't come back in  
9 class.

10 Q. Did you tell Jennifer Goodwin that they were  
11 being suspended?

12 A. I know I did after school, you know. Obviously  
13 after school they -- you know, it's like time  
14 served in the court system. They've already been  
15 removed from class for the last half hour of class  
16 so that's what they're being suspended for, is the  
17 last half hour of class, what a snap suspension  
18 is, and they both would be let back into class the  
19 next day.

20 Q. How long is the economics class?

21 A. At that time it was 55 minutes.

22 Q. And approximately how far into class were you  
23 when the snap suspensions were issued?

24 A. My guess would be around 20 minutes.

25 Q. After the boys left, then what is the next thing